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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,216	07/12/2004	Jordan Knez	2515 LN.ch	3771
21254	7590	02/23/2006	EXAMINER	
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			BRAHAN, THOMAS J	
			ART UNIT	PAPER NUMBER
			3654	

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/501,216

Applicant(s)

KNEZ, JORDAN

Examiner

Thomas J. Brahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The substitute specification and new abstract have been approved.
2. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
3. Claim 22 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. This is a new matter rejection. The original specification does not provide a basis for claiming that the retrieving disks are supported adjacent to the ground, in the manner applicant attempting to use the term as per the arguments in the amendment filed December 29, 2005.
4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 1-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wittek in view of Fuller et al. Wittek shows an apparatus for retrieving golf balls, the apparatus comprising:
 - a plurality of retrieving sections (10), each retrieving section including a frame, one or more receptacle baskets (52) removably supported on the frame, and a retrieving roller having a plurality of retrieving disks (30); and
 - a connection rail (130/56/130) interconnecting the frames in side-by-side relationship.Wittek varies from the claims by having the connection rail formed as articulated members instead of flexible member which only flexes in a vertical plane. Fuller et al shows a similar towed device with a biased resilient bar (22) that "quite flexible in the vertical direction but resists bending in the horizontal direction" and states that this enables the device to closely follow the contour of the land, see column 2, lines 24-29. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the towed golf ball retriever of Wittek by substituting connection bar which is flexible in the vertical direction and rigid in the horizontal direction for the articulated rail (130/56/130), as to have the device better follow the contours of the ground, as taught by Fuller et al. Each frame of Wittek has a mounting plate (58) attaching it to the rail, as recited in claim 2. The portions on the rails between these plates (58) are interconnected sections, as recited in claims 3 and 9. Wittek has a drawbar (76) at centrally placed frame, as recited in claims 4, 10 and 11. Wittek has a plurality of

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wheels (84 and 140), as recited in claims 5 and 12-14, with one wheel (84) as the drawbar (76), as recited in claim 6. The flexing of the rail of Fuller et al is due to it being made of flexible material, as recited in claims 7 and 15-19. The width to thickness ration of the rail, as recited in claims 8 and 20, would have been an obvious design expedient, within the level of ordinary skill in the art at the time the invention was made by applicant. Providing the

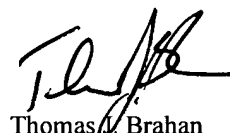
6. Claims 21 and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wittek in view of Fuller et al, as applied above to claim 1, and further in view of Kazanjian US Patent No. 2,735,562. Wittek, as modified, shows the basic claimed apparatus for retrieving golf balls, but varies from claim 21 by not having the support wheels located at the middle of each retrieving section. Kazanjian '562 shows a similar golf ball retrieving apparatus with three cross bars (27, 26, 27) each with a pair of wheels (29) or more, see column 2, lines 58-63, as to six wheels, a wheel for each section. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the connection rail of Wittek by providing it with additional wheel, as taught by Kazanjian. Having one wheel for each basket would have been an obvious method of distributing the loading along the bar which would have been within the limits of one of ordinary skill in the art at the time the invention was made by applicant. The wheels support the retrieving sections from the ground and the disks (30) eject the balls into the baskets as the device moves, as recited in claim 22.

7. Applicant argues in the amendment filed December 29, 2005, that the connection rail of Wittek is not flexible over its entire length. However that aspect is shown by the Fuller et al reference. Applicant also argues that Fuller et al does not have wheels. However, as Wittek has wheels, the lack of wheels on Fuller et al does not matter. It is not necessary for both references to have wheels. Applicant argues that Fuller et al is unrelated art, however as both Fuller et al and Wittek involve towed vehicles which follow the terrain, they are related art. Applicant's argument that Wittek does not having retrieving rollers is not understood. Figure 4 of Wittek clearly shows what the reference call drums, which are the same as applicant's rollers, with the drums of Wittek having tires (3), which are the same as applicant's disks. Applicant's argument concerning the difference between adjacent the ground and on the ground are drawn to a feature that was not part of the original disclose, as to be new matter. Also, little distinction is seen between the terms as the these devices will have the retrieving discs/wheels moving vertically as to be on and off the ground during use. The amendment necessitated the new grounds, accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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8. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Katherine Matecki, can be reached at (571) 272-6951. The new fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 2/19/06
Thomas J. Brahan
Primary Examiner
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